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A C Wharton, Jr., Mayor

## MEMORANDUM

**TO:** Commissioner Mike Ritz

**FROM:** Lisa L. Kelly, Assistant County Attorney 

**RE:** Request by Burlington Railroad for an Easement on 3335 Old Getwell Road

**DATE:** Monday, November 10, 2008

This memo addresses the question of whether the County should grant the requested easement<sup>1</sup> to Burlington Railroad in light of the lease provision that grants CCA the right to purchase the property.

No. It is not advisable for the County to transfer or otherwise encumber the 10.7 acres of real property located at 3335 Old Getwell Road in Memphis, TN. The property in question is the subject of a lease agreement between Shelby County Government on behalf of Juvenile Court and Corrections Corporation of America. The lease is for a period of thirty (30) years beginning in 1985 and terminating upon either completion of the Contract in 2015 or termination according to one (1) of five (5) early termination provisions, all of which give Corrections Corporation of America the option to purchase the property either at \$150,000 or fair market value. The price determination is dependant on how the contract terminates. See *Memo from Lisa Kelly to Commissioner Steven Mulroy Re: Corrections Corporation of America – Land Purchase Option for 335 Old Getwell Road, Memphis, TN dated Thursday, September 4, 2008*. At this time, the contract has terminated and Corrections Corporation of America gave written notice of its intent to purchase the property to Shelby County via letter dated July 9, 2008.

Because the Lease is a binding contract, every provision of the Lease dealing with early termination allows for the transfer of land to Corrections Corporation of America, and Corrections Corporation gave written notice to the County of its intent to purchase said property in keeping with its obligations to provide same under the Lease, it is not advisable for the County to transfer or otherwise encumber the 10.7 acres of real property.

CC: Honorable Mayor A. C. Wharton, Jr.  
Chairman Deidre Malone  
Chairman Pro Tempore Joyce Avery

<sup>1</sup> The Lease is silent to easements or encumbrances as it relates to the Lessor.

Commissioner Steven Mulroy  
Commissioner George S. Flinn, Jr.  
Commissioner Mike Carpenter  
Commissioner J. W. Gibson, II  
Commissioner Henri E. Brooks  
Commissioner James M. Harvey  
Commissioner Sidney Chism  
Commissioner Joseph Ford  
Commissioner Wyatt Bunker  
Commissioner David Lillard  
Brian Kuhn, Shelby county Attorney  
Kathy Johnson, Contracts Administrator  
Larry Scroggs, CAO/Chief Counsel, Juvenile Court  
Lee Hinson, Assistant to the Director, Public Works Division  
Tom Moss, Administrator, Land Bank  
Dottie Jones, Director of Division of Community Services